

**Section 5. Form of Ballots.**

The ballots used when voting upon such proposed and referred ordinances, resolutions or measures shall set forth their nature sufficiently to identify them, and shall also set forth upon separate lines the words "For the Ordinance" and "Against the Ordinance", or "For the Resolution" or "Against the Resolution". (Added by amendment October 15, 1913)

**Section 6. Publication of Ordinance, etc. Notice of Election.**

The Secretary shall publish at least once, every proposed or referred ordinance or resolution in some daily newspaper in the City of Houston within fifteen days before the date of the election; and shall have such other notices, and do such other things relative to such election as are required in general municipal elections, or by the ordinance calling said election. (Added by amendment October 15, 1913)

**Section 7. Adoption of Ordinance.**

If a majority of the qualified electors voting on any proposed ordinance or resolution or measure shall vote in favor thereof the same shall thereupon or at any time fixed therein become effective as a law or as a mandatory order to the Council. (Added by amendment October 15, 1913)

**Section 8. Inconsistent Ordinances.**

If the provisions of two or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail. (Added by amendment October 15, 1913)

**Section 9. Repeal or Amendment of Ordinances Passed by the People.**

No ordinance or resolution, which has been passed by the Council upon a petition, or adopted by popular vote, under the provisions of this Article, shall be repealed or amended, except by the Council in response to a referendum petition or by popular vote thereon. (Added by amendment October 15, 1913)

**Section 10. Number of Elections.**

There shall not be held under this Article more than one special election in any period of six months. (Added by amendment October 15, 1913)

**Section 11. Regulations by Council.**

The Council, by ordinance may make other and further regulations for carrying out the provisions of this Article not inconsistent herewith. (Added by amendment October 15, 1913)

**Section 12. Certain sections not construed to be repealed.**

Nothing herein shall be construed to in any wise affect, impair or repeal Sections 17 and 18 of Article II or any other provision of the Charter affecting the granting of franchises or privileges or the referendum thereon, but the same shall continue to remain in full force and effect as though this Article had not been adopted. (Added by amendment October 15, 1913)

**Note**—The title of this section was added by the editor; it was not titled in the Ordinance calling the 1913 Charter Election.

**Section 13. Referendum on Zoning.**

The City of Houston shall have the power to adopt a zoning ordinance only by: (a) allowing a six month waiting period after publication of any proposed ordinance for public hearings and debate and (b) holding a binding referendum at a regularly scheduled election. Any existing zoning ordinance is hereby repealed. (Added by amendment January 15, 1994)

**ARTICLE VIII. CITY CONTROLLER.**

**Section 1. ELECTION, SALARY, BOND, ETC.**

The City Controller shall receive a salary of \$14,800.00 per annum, payable in equal semi-monthly installments, and shall make a bond in the sum of \$50,000.00 conditioned as the Council may require. He shall not be removed from office except by impeachment proceedings, as provided for in the case of the Mayor and Councilmen, or by recall as provided in this Charter.

This section shall be effective on the 1st day of August, A. D. 1947. (Act of 1905; amended October 15, 1913; December 30, 1922, January 28, 1933, July 26, 1947, November 18, 1961)

## **Sec. 2. Duties of the controller.**

It shall be the duty of the controller to superintend and supervise the fiscal affairs of the City of Houston, and to manage and conduct the same as prescribed by this Charter and the ordinances of the City of Houston that are now or may be hereafter enacted; and said controller shall prepare and publish in some newspaper in the City of Houston, not later than the 5th day of each month, a notice declaring that a statement of the preceding month's expenses is available for examination and inspection in the office of the controller. Such statement shall show the total amount paid in monthly salaries to all the employees in each department of the city and shall also show the amount paid on the weekly pay roll to all persons working for the city by the week or day, and shall also show the cost of maintaining each department of the city government, and the total amount of each month's expenses so incurred; said statement shall also show the cost of improvement and extension work not properly classed as current expenses and not done under contract with outside parties, and shall show all other extraordinary expenditures, for interest on bonds, payments on bonds, etc., which statement shall be signed and sworn to by said controller, and he shall permit any qualified elector at all reasonable hours to examine or inspect the books of the city, furnishing such party all reasonable assistance therein, and the council shall pass suitable ordinances to enforce this section and provide suitable penalties. (Act of 1905; amended October 15, 1913, August 14, 1982)

## **Section 2a. Vacancy.**

In the case of the death, resignation or permanent disability of the City Controller or whenever a vacancy in the office of the City Controller shall occur for any reason, the City Council shall appoint a successor to fill the unexpired term of such office, provided that City Council may appoint someone temporarily for not more than sixty (60) days to hold such office, which person or persons

shall be qualified in like manner as is required of persons elected to the office of City Controller. (Added by amendment August 14, 1982)

## **Section 3. Books of Account.**

It shall be the duty of the Controller to keep books of account of the City of Houston, and to make such financial reports and statements as are provided by the terms of this Act. His books of account shall exhibit accurate and detailed statements of all moneys received and expended for account of the City by all City officials and other persons, and shall show in detail the property owned by the City and the income derived therefrom.

He shall also keep separate accounts of each and every appropriation made by the City Council, showing the date thereof and the purpose for which the same is made, and shall show for what each payment of any public money is made and the manner of making the same, and to whom same is made.

He shall keep a separate account with each department of the City government, and also such other accounts as may be necessary to show a complete financial statement of the City, and he shall be prepared at every regular meeting of the City Council to give such information concerning the finances of the City as the Council may require.

All warrants or orders for payment of any public fund or moneys for any purpose shall be signed by the Controller and the Mayor. No warrant not signed by the Controller shall be authority for the payment of any public funds whatever, but the Controller shall in no instance, unless the money is in the treasury and in the fund against which it is drawn, sign any warrant or order for the payment of any sum or amount for any purpose; provided, however, that nothing herein contained shall prevent the issue and sale of warrants to anticipate the current revenue for any one year, which said warrants shall bear such rate of interest, not exceeding five per cent., as the City Council by ordinance may prescribe.

He shall not sign any contract nor make or execute any warrant or order for the payment of

any sum of money, unless the same be legal, and all prerequisites and requirements shall have been complied with, nor until after an appropriation has been duly and legally made therefor.

He shall, whenever deemed necessary, require all accounts presented to him for settlement or payment to be certified to by affidavit, and he is hereby authorized to administer oaths, with authority to compel and require persons to answer such questions as may be propounded to them touching the correctness of any account or claim against the City. He shall require all persons who shall have received any moneys belonging to the City and not having accounted therefor, to settle their accounts, and it is hereby made his duty from time to time to require all persons receiving moneys, or having the disposition or management of any property of the City of which an account is kept in his office, to render statements thereof to him; provided, that no warrant or order shall ever be issued in favor of any person or corporation, or to the assignee or agent of any person indebted in any manner for taxes or otherwise to the City, unless such debt so due and owing to the City be paid.

No disbursing officer of the City, nor any one having money in his possession for the account of the City, shall pay the same to any person or persons for the account of the City, except to the regularly designated officer or custodian of the public funds for the City, except upon draft or warrant countersigned by the Controller of the City of Houston, and signed by the Mayor; and the Controller shall not countersign any such draft or warrant until he has audited and examined the claim and found the same justly and legally due and payable, and that the payment has been legally authorized, and appropriation therefor duly made, and that the appropriation has not been exhausted. (Act of 1905)

#### **Section 4. Annual Report.**

In addition to the annual statement herein required, and of the reports which may be demanded by the Council at any time, it is especially made the duty of the Controller to be able to show at any time, and certainly upon or immediately after the first of each month, a comprehen-

sive and accurate statement of the financial affairs of the City of Houston, and if any officer of any department, or any employe of the City, shall fail to make such stated or stipulated reports as, and at the times, required either by the Mayor or the City Council, it shall be the duty of the Controller to report such delinquency or failure to the Mayor, and further to state at any time any carelessness or negligence of any officer or employe in the making or stating of reports covering any matter within the range of the duty of said officer or employe. (Act of 1905; amended December 28, 1915)

#### **Section 5. Right to Examine the Books of the Grantees of Public Franchises.**

The City of Houston shall have the right to regulate the rates, fares, tolls and charges to be collected from the public by any holders, owners, operators, persons or incorporations enjoying any grants or franchises from the City of Houston pertaining to public utilities, including furnishing of lights, water, telephones, and street car service, etc., pertaining to a public or quasi public duty, and the right and authority is hereby given to the Mayor or to the City Council to require the City Controller or such other officer or employe as may be designated, to examine, carefully inspect all of the books, accounts, papers and documents, as well as the property of such persons or corporations using and enjoying any of said grants or franchises from the City of Houston as above stated, and to make such reports of said examination as required by the Mayor or City Council, when deemed necessary, for the following purposes:

1. When such franchise or grant was made upon the consideration and agreement that the City of Houston should receive a per cent. or portion of the revenue derived from the use of said grant or franchise.
2. When the persons or corporations above referred to have listed their property for taxation at a valuation deemed by the City Council or the Mayor to be below its actual value, or fails to list the same for taxation.

3. When the City Council desires to fix the rates, fares, tolls and charges which said persons or corporations above described shall charge the public for water, lights, transportation, or other services rendered or furnished under the franchises granted to it or them by the said City of Houston, and the information is desired or deemed necessary by the Mayor or City Council as a basis upon which to fix a proper rate.
4. When the Mayor or City Council have directed the individuals or corporations above specified to extend their lines and service or to improve their service in any manner necessary for the public comfort and convenience, or to make improvements and betterments of their property, and such persons or corporations demur thereto, on the ground that the income from their property used under said franchise is not sufficient to justify the same.

Such examinations and reports provided for in this Section are for the purpose of ascertaining the value of the property and the income derived from it, and the reasonable expense for its operation. (Act of 1905)

#### **Section 6. Reports of Owners of Franchises.**

It is hereby made the duty of every person, firm or corporation, assignee, trustee or receiver owning, operating or controlling any property under a franchise or grant from the City of Houston to make and submit to the City Council of the City of Houston, within sixty days after the first day of January of each and every year, an annual report in writing, verified under oath by such person, firm, or the president, treasurer, general manager, trustee, assignee or receiver of such corporations, which said report shall contain a complete statement of the financial condition of said person, firm or corporation, or assignee, trustee or receiver, including the authorized capital stock, the amount of stock issued and outstanding, the bonded indebtedness, if any, the indebtedness of any and all kinds, the assets of any and all kinds including personal property and real estate, the earnings, gross and net, the operating and other expenses, and all such other detailed information as may be prescribed from time to time by the

City Council by ordinance; and every such person, firm or corporation, assignee, trustee or receiver shall also be required, whenever requested by the City Council, within 30 days thereafter, to make such other and further reports and to give such other and further information as may be required by said City Council from time to time in regard to their said business.

Any such person, firm or corporation, assignee, trustee or receiver who shall fail or refuse to make the annual report herein provided for, or fail or refuse to furnish any such information as may be requested by the City Council as herein provided for, or make a report false in any material particular, or fail or refuse to permit the examination provided for in section 5 of this Article shall forfeit and pay to the City of Houston the sum of Fifty Dollars per day for each and every day during which he or it shall so fail or refuse to make and submit such annual report, or give such information as may be requested or permit a report false in any material particular to remain on file uncorrected, or refuse to permit the examination provided for in Section 5 of this Article, which said sum may be recovered by the City of Houston in any court of competent jurisdiction. That in addition to such penalty or penalties the City Council shall, in the event of a failure or refusal to make such annual report, or to give additional information, or to permit such examination, or to allow to remain on file a report false in any material particular, pass appropriate ordinances forfeiting the franchise of such person, firm, corporation, assignee, trustee or receiver.

That the City Council, in addition to the foregoing penalties provided for, may pass such ordinances as it may deem necessary to enforce the provisions of this section and fix a penalty for the violation hereof in any sum not exceeding One Hundred Dollars and provide that each and every day that such failure or refusal continues, or such false report is allowed to remain upon file shall constitute a separate and distinct offense, and provide in such ordinances that the officers, servants and agents of any such person, firm or corporation, or assignee, trustee or receiver having the custody, management and control of said franchise and its books and property shall also be deemed the owners and operators and controllers

of such franchise, and they, as well as such persons, firms, or corporations, trustees, assignees or receivers, shall be guilty of violation of such penal ordinances as may be passed hereunder. (Added by amendment October 15, 1913)

## ARTICLE IX. GENERAL PROVISIONS

### Section 1. Actions by Citizens.

Any citizen who is a property tax-payer of the City of Houston may maintain an action in the proper court to restrain the execution of any illegal, unauthorized or fraudulent contract or agreement on behalf of said City, and to restrain any disbursing officer of said City from paying any illegal, unauthorized or fraudulent bills, claims or demand against said City, or any salaries or compensation to any person in its administrative service whose appointment has not been made in pursuance of the provisions of law and the regulations in force thereunder. And in case any such illegal, unauthorized or fraudulent bills, claims or demands or any such salary or compensation shall have been paid, such citizen may maintain an action in the name of said City against the officer making such payment, and the party receiving the same, or either, or both, to recover the amount so paid, and such amount, after deducting all expenses of the action, shall be paid into the City treasury; provided, however, that the court may require such citizen to give security to indemnify the City against costs of court, unless the court shall decide that there was reasonable cause for bringing the action. The right of any property tax-payer of the City to bring an action to restrain the payment of compensation to any person appointed to or holding any office, place or employment in violation of any of the provisions of this Act, shall not be limited or denied by reason of the fact that said office, place or employment shall have been classified as, or determined to be, not subject to competitive examination; provided, however, that any judgment or injunction granted or made in any such action shall be prospective only, and shall not affect payments already made or due to such persons by the proper disbursing officers.

In case of any unsatisfied judgment, or any suit or process of law against said City, any five or more citizens who are freeholders of said City, shall, upon petition, accompanied by affidavit that they believe that injustice will be done to said City in said suit or judgments, be permitted to intervene and inquire into the validity of said judgment, or defend said suit or action as fully and completely as the officers of said City would by law have the right to do. (Act of 1905)

### Sec. 2. Elections.

That in each voting precinct of the City as the same may be legally defined, shall be established and arranged at least one voting place, and where two or more voting places are established, they shall be so located as to be most convenient to the greatest number of voters, with a distinct set of election officers, ballot boxes and registration books for each voting place; provided, the voter shall vote in the district or precinct of his residence. The city council shall make all necessary regulations concerning elections; the manner and method of holding the same. Such regulation, however, shall be in keeping with the provisions of this Act, and shall be in keeping with and consistent with the provisions of the State law applicable to elections and municipalities, in so far as the same may be practicable, and the city council shall provide for the examination and counting of the returns of elections, declarations of the result thereof, and the issuance of proper certificates to the successful candidates; and it is hereby made the duty of the council to examine and count the returns at its first regular meeting after the election shall be held, or if no regular meeting shall be held within one week after an election is held it is hereby made the duty of the mayor to call a special meeting of the council for the purpose of counting the vote and determining the result of the election within one week after the election is held, and the officers declared to be elected at such election shall be entitled to qualify immediately after the declaration of the result of the election, upon taking the oath of office prescribed by law.

The city council may, consistent with the other provisions of this Act, and conforming to all the provisions of the State law regulating primary